

Notice of Allowability	Application No.	Applicant(s)	
	10/598,366	BLUM ET AL.	
	Examiner	Art Unit	
	ERIK KASHNIKOW	1782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to response filed 01/04/11.
2. ☒ The allowed claim(s) is/are 1,7-12,14 and 15.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| <ol style="list-style-type: none"> 1. <input type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | <ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other _____. |
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/Rena L. Dye/
 Supervisory Patent Examiner, Art Unit 1782

Reasons for Allowance

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Jennifer Camacho on 06/29/11.

The application has been amended as follows:

In claim 1 after the words "lubricating composition comprising" and before the words and "minimal free water" delete the words "two or more glycols" and replace with "glyceryl polymethacrylate and at least about 10% w/w propylene glycol and at least 30% w/w polyethylene glycol, wherein the amount of said polyethylene glycol is greater than the amount of said propylene glycol".

In claim 1 after the words "warming sensation to the user" delete the words "wherein the lubricating composition comprises glycerol polymethacrylate, at least about 10% w/w propylene glycol, and at least about 30% w/w polyethylene glycol, and wherein the amount of said polyethylene glycol is greater than the amount of said propylene glycol" and replace with ".".

Replace claim 8 with "The condom of claim 1, wherein the lubrication composition has the following formula: 20% w/w propylene glycol, 45% w/w

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polyethylene glycol, 25% w/w mixture of glyceryl polymethacrylate, propylene glycol and water, and 10% w/w glycerin 96%.

In claim 11 after the words "lubrication composition comprising" and before the words "and minimal free water" delete the words "one or more glycols" and replace with the words "glyceryl polymethacrylate and propylene glycol and at least about 30% w/w polyethylene glycol, wherein the amount of said polyethylene glycol is greater than the amount of said propylene glycol".

Claim 13 will be cancelled.

2. The following is an examiner's statement of reasons for allowance: the instant claims have been found allowable over the closest prior art, Harrison et al. (US 2002/0103414) and Ahmad et al. (2003/0211161), for the following reasons:

3. Harrison et al. teach a condom with a lubricant that comprises polyethylene glycol, propylene glycol and glyceryl polymethacrylate, however Harrison et al. teach that the condom also contains a desensitizing agent which teaches away from the instant invention which requires warming sensation to the user upon contact with free water from bodily secretions. It is also noted that Harrison et al. do not teach an embodiment wherein the amount of polyethylene glycol is greater than that of propylene glycol, or embodiments wherein the concentration of polyethylene glycol is over 30% w/w.

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4. Ahmad et al. teach warmth imparting lubrication compositions that comprise polyethylene glycol and propylene glycol in the required concentrations and ratios (page 10 second column right after paragraph 0115). However Ahmad et al. are silent with regards to the inclusion of glyceryl polymethacrylate and further are silent with regards to using the lubricating composition on a condom.

5. Thus it is clear that Harrison et al. or Ahmad et al. alone or in combination do not disclose the present invention.

Further the amendment submitted on 01/04/11 as well as the examiners amendment set forth in the paragraphs above overcomes the double patenting rejection of record

In light of the above the present claims are passed to issue.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIK KASHNIKOW whose telephone number is (571)270-3475. The examiner can normally be reached on Monday-Friday 7:30-5:00PM EST (Second Friday off).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on (571) 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Erik Kashnikow
Examiner
Art Unit 1782

/Rena L. Dye/
Supervisory Patent Examiner, Art Unit 1782